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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-583-848]

Certain Stilbenic Optical Brightening Agents from Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that certain stilbenic optical brightening agents (stilbenic OBAs) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margin of sales at LTFV is listed in the “Suspension of Liquidation” section of this notice. Interested parties are invited to comment on this preliminary determination.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Sandra Stewart or Hermes Pinilla, AD/CVD

Operations, Office 1, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

telephone (202) 482-0768 and (202) 482-3477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2011, Clariant Corporation (the petitioner) filed an antidumping petition against imports of stilbenic OBAs from Taiwan. *See* “Certain Stilbenic Optical Brightening

Agents from the People’s Republic of China and Taiwan; Petitions Requesting the Imposition of Antidumping Duties,” dated March 31, 2011 (the petition).

On April 27, 2011, the Department initiated the antidumping duty investigation on stilbenic OBAs from Taiwan. *See Certain Stilbenic Optical Brightening Agents From the People’s Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 76 FR 23554 (April 27, 2011) (*Initiation Notice*).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of publication of the *Initiation Notice*. *See Initiation Notice*, 76 FR at 23555. The Department also set aside a period of time for parties to comment on product characteristics for use in the antidumping duty questionnaire. *Id.* We received comments from the respondent on May 10, 2011, and comments from the petitioner on May 10, 17, and 26, 2011, concerning product characteristics.<sup>1</sup> After reviewing the comments received, we have adopted the characteristics and hierarchy as explained in the “Product Comparisons” section of this notice, below.

Based on U.S. Customs and Border Protection (CBP) data obtained for U.S imports of subject merchandise during the period of investigation (POI), on May 24, 2011, we selected Teh Fong Min International Co., Ltd. (TFM) and Sun Rise Chemical Ind. Co., Ltd. (Sun Rise) as mandatory respondents in this investigation. On June 10, 2011, Sun Rise provided documentation supporting its claim that it did not have any shipments of subject merchandise to the United States during the POI. *See* the “Selection of Respondents” section of this notice, below.

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<sup>1</sup> The petitioner’s May 26, 2011, comments were submitted in response to the product-matching characteristics identified by the Department in its May 26, 2011, antidumping-duty questionnaire.

On May 26, 2011, we issued the antidumping questionnaire to TFM and Sun Rise. We received TFM's responses on July 1 and July 20, 2011. Because Sun Rise properly filed a statement of no shipments and provided supporting documentation, it did not respond to our questionnaire.

On May 27, 2011, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of stilbenic OBAs from Taiwan are materially injuring the U.S. industry, and the ITC notified the Department of its finding. *See Certain Stilbenic Optical Brightening Agents From China and Taiwan*, 76 FR 30967 (May 27, 2011).

On June 9, 2011, we sent a letter to all interested parties inviting comments regarding the Harmonized Tariff Schedule of the United States (HTSUS) subheadings included in the description of the subject merchandise. On June 16, 2011, we received comments from the petitioner. After reviewing the comments received we established the appropriate description of the subject merchandise. *See* the "Scope of the Investigation" and the "Changes to Scope of Investigation" sections of this notice below.

On July 29, 2011, the petitioner requested that the Department postpone its preliminary determination by 50 days. Because the petitioner made this timely request, in accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days. *See Certain Stilbenic Optical Brightening Agents From the People's Republic of China, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 76 FR 49443 (August 10, 2011).

On September 12, 2011, the petitioner filed allegations of targeted dumping by TFM. *See* the "Allegations of Targeted Dumping" section below.

On October 17, 2011, TFM requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by no more than 135 days in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month to a six-month period.

On October 11, 2011, the petitioner submitted comments for consideration in the preliminary determination.

#### Period of Investigation

The POI is January 1, 2010, through December 31, 2010. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, March 2011. *See* 19 CFR 351.204(b)(1).

#### Scope of the Investigation

The certain stilbenic OBAs covered by this investigation are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis [1,3,5-triazin-2-yl]<sup>2</sup> amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic OBAs covered by these investigations include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of final stilbenic OBA products.

Excluded from this investigation are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl]<sup>3</sup> amino-2,2'-stilbenedisulfonic acid, C<sub>40</sub>H<sub>40</sub>N<sub>12</sub>O<sub>8</sub>S<sub>2</sub> (“Fluorescent Brightener 71”). This investigation covers the above-described compounds in any state (including but not

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<sup>2</sup> The brackets above denote the chemical formula of the subject merchandise. This is not business-proprietary information.

<sup>3</sup> *Id.*

limited to powder, slurry, or solution), of any concentrations of active certain stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of certain stilbenic OBAs with each other, or of certain stilbenic OBAs with additives that are not certain stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the HTSUS, but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

#### Changes to Scope of Investigation

The Department identified the scope of the investigation in its *Initiation Notice* and set aside a period of time for interested parties to raise issues regarding product coverage. On June 9, 2011, the Department issued a letter to all interested parties inviting comments regarding whether HTSUS subheadings 2921.59.4000 and 2921.59.8090 are appropriate for inclusion in the scope of the investigation. The petitioner submitted comments on June 16, 2011. No other party submitted comments. On July 11, 2011, the Department issued a memorandum detailing its decision to continue to include HTSUS subheadings 2921.59.4000 and 2921.59.8090 in the scope of the investigation.

#### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. In the *Initiation Notice* we stated that we intended to

select respondents based on CBP data for U.S. imports under HTSUS number 3204.20.80 during the POI and we invited comments on CBP data and selection of respondents for individual examination. *See Initiation Notice*, 76 FR 23554 (April 27, 2011).

On May 2, 2011, we released the CBP data to all parties with access to information protected by administrative protective order. Based on our review of the CBP data and our consideration of the comments we received from the petitioner on May 9, 2011, and the Department's current workload, we determined that we had the resources to examine two companies. Accordingly, we selected TFM and Sun Rise as mandatory respondents. These companies also are the publicly identified producers/exporters of subject merchandise. *See Memorandum to Christian Marsh* entitled "Antidumping Duty Investigation on Certain Stilbenic Optical Brightening Agents from Taiwan – Identification of Respondents," dated May 24, 2011.

On June 10, 2011, Sun Rise provided documentation that it did not have any shipments of subject merchandise to the United States during the POI, and a review of entry documents provided by CBP substantiated this claim. *See Memorandum from Tom Futtner to Laurie Parkhill*, entitled "Request for U.S. Entry Documents – Certain Stilbenic Optical Brightening Agents from Taiwan (A-583-848)," dated August 3, 2011. Therefore, TFM is the only remaining mandatory respondent in this investigation.

#### Allegations of Targeted Dumping

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: 1) there is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; 2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

On September 12, 2011, the petitioner submitted an allegation of targeted dumping with respect to TFM asserting that the Department should apply the average-to-transaction methodology in calculating TFM's margin. In its allegation, the petitioner asserts that there are patterns of export prices (EPs) for comparable merchandise that differ significantly among customers and regions. The petitioner relied on the Department's targeted-dumping test first introduced in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) (*Nails*), and used more recently in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) (*OCTG*).

Because our analysis includes business-proprietary information, for a full discussion see Memorandum to Christian Marsh, entitled "Less-Than-Fair-Value Investigation on Certain Stilbenic Optical Brightening Agents from Taiwan: Targeted Dumping – Teh Fong Min International Co., Ltd.," dated concurrently with this notice (Targeted-Dumping Memo).

#### *A. Targeted-Dumping Test*

We conducted customer and regional analyses of targeted dumping for TFM using the methodology we adopted in *Nails* as modified in *Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 55183 (October 27, 2009) (test unchanged in final; 75 FR 14569 (March 26, 2010)), to correct a ministerial error, and as further modified in *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment

4,<sup>4</sup> to correct for additional ministerial errors.

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. *See* section 777A(d)(1)(B)(i) of the Act and *Nails*. In this test we made all price comparisons on the basis of identical merchandise (*i.e.*, by control number or CONNUM). The test procedures are the same for the customer and regional allegations of targeted dumping. We based all of our targeted-dumping calculations on the U.S. net price which we determined for U.S. sales by TFM in our standard margin calculations. For further discussion of the test and the results, *see* the Targeted-Dumping Memo.

As a result of our analysis, we preliminarily determine that the overall proportion of TFM's U.S. sales during the POI that satisfy the criteria of section 777A(d)(1)(B)(i) of the Act and our practice as discussed in *Nails* is insufficient to establish a pattern of EPs for comparable merchandise that differ significantly among certain customers or regions. Accordingly, the Department has determined that criteria established in 777A(d)(1)(B)(i) of the Act have not been met.

Therefore, we have applied the average-to-average methodology to all sales. *See* Targeted-Dumping Memo for further discussion.

#### Date of Sale

Section 19 CFR 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a

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<sup>4</sup> *See also* Targeted-Dumping Memo for further discussion.



different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

TFM reported its sales using shipment date as the date of sale, because its shipments occurred prior to invoicing. On July 14, August 11, September 12, October 11, and October 12, 2011, the petitioner commented on the use of the date of TFM's long-term contracts as the date of sale for U.S. sales made pursuant to these contracts. Based on information on the record concerning these long-term contracts, we have determined that the evidence does not establish that the material terms of sale are set on contract date. TFM has demonstrated that either party has the right to renegotiate the prices during the pendency of the contract, that such renegotiations have occurred, that the quantities established in the contracts are merely estimates and that there are no firm minimum quantity requirements.

*See* TFM's August 26, 2011, supplemental questionnaire response at pages 6-7, and exhibit SE-13. Therefore, because date of shipment precedes invoice date and the record evidence otherwise demonstrates that shipment date is when final price and quantity are determined, we have used shipment date as the date of sale. For one customer, multiple sales were included in one invoice, and we calculated a "weighted average ship date" to use as the date

of sale. *See* the TFM Analysis Memorandum to the file dated concurrently with this notice for additional information (Preliminary Analysis Memo).

Recently the U.S. Court of International Trade upheld the Department's decision to use invoice date for U.S. sales governed by long-term contracts because the evidence on the record did not demonstrate that the respondent's U.S. customers were contractually bound such that their material terms of sale were finally and firmly established on the contract date. *See Yieh Phui Enterprise Co. v. United States* (Slip Op. 11-107) (August 24, 2011). Similarly, the long-term contracts here do not set the material terms of sale; the terms are set at date of shipment, which occurs before date of invoice. Therefore, in accordance with our practice and judicial precedent we have selected the date of shipment as the date of sale.

#### Fair-Value Comparisons

To determine whether sales of stilbenic OBAs to the United States by TFM were made at LTFV during the POI, we compared normal value to constructed export price, as described in the "Normal Value" and "Constructed Export Price" sections of this notice in accordance with section 777A(d)(1)(B) of the Act. We made average-to-average comparisons for all sales to the United States and provided offsets for non-dumped comparisons.

#### Product Comparisons

We received comments from the respondent on May 10, 2011, and comments from the petitioner on May 10, 17, and 26, 2011, concerning product characteristics. After reviewing the comments received, we have adopted the characteristics and hierarchy identified by the petitioner, with one exception. Instead of matching on the basis of the exact concentration of active brightening agents, we specified a range of active ingredients in the hierarchy. *See* our May 26, 2011, antidumping-duty questionnaire for TFM. We have relied on four criteria for

matching U.S. sales of subject merchandise to normal value: category, stage, state, and range of concentration of active ingredients.

#### U.S. Price

We based the United States price on constructed export price (CEP), as defined in section 772(a) of the Act, because the first sale to an unaffiliated party was made by TFM's U.S. affiliate, TFM North America, Inc.

We calculated CEP based on the packed Free on Board, Cost, Insurance and Freight, or delivered price to unaffiliated purchasers in the United States. We made deductions, as appropriate, for discounts. We also made deductions for any movement expenses in accordance with sections 772(c)(2)(A) and 772(d) of the Act. *See* the Preliminary Analysis Memo for additional information.

#### Normal Value

After testing comparison-market viability, we calculated normal value as stated in the "Constructed Value" section of this notice.

##### *A. Comparison-Market Viability*

Section 773(a)(1) of the Act directs that normal value be based on the price at which the foreign like product is sold in the comparison market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate) and that there is no particular market situation that prevents a proper comparison with the export price. Section 773(a)(1)(C) of the Act contemplates that quantities (or values) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

In order to determine whether there was a sufficient volume of sales in the home market or third country to serve as a viable basis for calculating normal value, we compared the respondent's volumes of home-market and third-country sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with sections 773(a)(1)(B) and (C) of the Act. The aggregate volume of TFM's sales of foreign like product in the home market was not greater than five percent of its sales of subject merchandise to the United States. Therefore, TFM's sales in the home market are not viable as a comparison market. Similarly, TFM's sales of foreign like product to third-country markets were not greater than five percent of its sales of subject merchandise to the United States. Therefore, none of these markets are viable as a comparison market.

B. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated constructed value (CV) based on the sum of the cost of materials and fabrication, selling, general and administrative expenses, interest expenses, U.S packing expenses, and profit. We relied on information submitted by the respondent for materials and fabrication costs, general and administrative expenses, interest expenses, and U.S. packing costs. Based on the review of record evidence, TFM did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

Because the Department has determined for purposes of this preliminary determination that TFM does not have a viable comparison market, we could not determine selling expenses and profit under section 773(e)(2)(A) of the Act. Therefore, we relied on section 773(e)(2)(B) of the Act to determine these amounts.

The statute does not establish a hierarchy for selecting among the alternative

methodologies provided in section 773(e)(2)(B) of the Act for determining selling expenses and profit. *See* Statement of Administrative Action Accompanying the URAA, H.R. Rep. No. 103-316, Vol. 1, at 840 (1994). Alternative (iii) of section 773(e)(2)(B) of the Act specifies that selling and profit may be calculated based on any other reasonable method in connection with the home-market sale of merchandise that is in the same general category of products as the subject merchandise as long as the result is not greater than the amount realized by exporters or producers “in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise” (*i.e.*, the “profit cap”).

Because TFM did not produce and sell any other merchandise in the same general category as stilbenic OBAs and because no other producers/exporters are being individually examined in this investigation, we calculated TFM’s selling expenses and profit under section 773(e)(2)(B)(iii) of the Act. We used the selling expenses and profit from the publicly available financial statements for the fiscal year most contemporaneous with the POI of a company in Taiwan, Everlight Chemical Industrial Corporation (Everlight). In addition to producing subject merchandise, Everlight also produces other chemicals, including OBAs that are used in other applications. For a more detailed discussion *see* Memorandum to Neal Halper from Gina Lee, regarding “Constructed Value Calculation Adjustments for the Preliminary Determination,” dated concurrently with this notice (Preliminary Cost Memo).

As explained above, TFM does not produce other merchandise in the same general category of products as the subject merchandise. Thus, a profit cap cannot be calculated as there is no information regarding profit that is normally realized in connection with the sale of merchandise in the same general category for consumption in the home market. *See* Preliminary

Cost Memo. Therefore because there is no information available on the profit cap on the record, as facts available, we are applying option (iii), without quantifying a profit cap.

#### Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for TFM.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of stilbenic OBAs from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated below, as follows: (1) the rate for TFM will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 12.03 percent, as discussed in the “All-Others Rate” section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

#### Manufacturer/Exporter

#### Weighted-Average Margin (Percent)

Teh Fong Min International Co., Ltd.

12.03

### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. TFM is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for TFM, 12.03 percent. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007)).

### Disclosure

We will disclose the calculations performed in our preliminary determination to interested parties in this proceeding in accordance with 19 CFR 351.224(b).

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of stilbenic OBAs from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (see section 735(b)(2) of the Act).

Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed below, the ITC will make its final determination no later than 45 days after our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on CD-ROM.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party. *See* also 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration,



U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice.

Requests should contain the following: (1) the party's name, address, and telephone number; (2) a list of participants; (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise or, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 17, 2011, TFM requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by no more than 135 days after the date of publication of this notice in the *Federal Register*. At the same time, TFM requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later

than 135 days after the publication of this notice in the *Federal Register*. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

October 27, 2011 \_\_\_\_\_  
Date

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